

April 27, 2006

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: CG Docket No. 02-278

My name is __Catherine Briant____ and I am the _A/R Technician____ of FMA Alliance, Ltd. located in Houston, Texas, a collection agency. We do not perform telemarketing services. Rather, our company attempts to collect debts owed to credit grantors and we utilize an autodialer to call the phone numbers associated with a consumer's account. We do not use an autodialer to make random or sequential calls.

As you know, the Telephone Consumer Protection Act (TCPA) was passed in 1991. This law was designed to protect consumers from invasive calls from telemarketers. One of the provisions of the TCPA prohibits the use of an autodialer to communicate with a consumer by way of their cell phone.^[1] Between 1991 and 2003, the FCC consistently ruled that this autodialer prohibition did not apply to calls made using an autodialer *if the sole purpose of the calls was to recover payments for goods and services already purchased.*

But in July 2003, the FCC expanded the definition of autodialer and failed to restate the commission's prior rulings that calls made by creditors and debt collectors to consumers' about their past due payment obligations by way of their cell phones were not subject to the autodialer prohibition. The FCC inadvertently brought calls my company makes for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation.

This shift in policy has caused my business substantial harm. This is because past due obligations typically remain unpaid until the consumer is contacted by phone. Over the last few years, we have seen an increasing trend where consumers are replacing their landline phones for cell phones and prefer to receive calls on their cell phones. This inadvertent autodialer prohibition diminishes our telephone calling efficiency, makes it more difficult to collect obligations legally owed to credit grantors, effects the work place ergonomics of collection employees since more manually dialed calls

will need to be made, and negatively impacts our accuracy in dialing the correct number at an appropriate time. In fact, autodialer technology is the most accurate way for us to call consumers about their past due payment obligations. Autodialers increase the accuracy of dialed numbers and also restrict calls to the permitted calling times in the time zone of the consumer.

I am aware ACA has filed a Petition for an Expedited Ruling regarding this issue in proceeding CG Docket No. 02-278 with the commission. I fully support ACA's petition and the relief requested, including ACA's statement of the harm to business and the federal and state governments as a result of the FCC's rule. I believe that the FCC should not uphold an unsupportable and damaging regulatory interpretation that will encourage the evasion and non-payment of debts by prohibiting the use of autodialers to telephone consumers by way of their cell phones. To do so is contrary to the intent of Congress and all prior rulings of the FCC between 1991 and 2003 concerning this issue.

If the FCC's 2003 regulatory definition of autodialer is allowed to stand, creditors and their debt collection agents face the devastating loss of an essential technological tool, namely the autodialer. It cannot be overstated that autodialer technology is directly or indirectly responsible for returning tens of billions of dollars each year to the U.S. economy. Banning their use in this limited context would not only be inconsistent with Congress' intent, but it would be an unconscionable interference with creditors' ability to request payment from its own customers.

For these reasons, the FCC should promptly clarify that autodialer calls to wireless numbers solely to recover payment obligations are not covered by the TCPA regulations for the reasons expressed by ACA.

Sincerely,

____Catherine Briant_____